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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/784,665

02/15/2001

Yiqun Wang

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EXAMINER

ALI, SHUMAYA B

ART UNIT

PAPER NUMBER

3771

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/784,665

Applicant(s)

WANG ET AL.

Examiner

Shumaya B. Ali

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restriction*

While the apparatus claims 22-30 were previously elected without traverse, upon further consideration, Examiner believes the apparatus claims 22-30 and the method claims 31-36 are coexistent, therefore, the requirement for election/restriction set forth in the previous office action dated 7/26/05 is hereby withdrawn. Therefore, all pending claims, claims 22-36 would be examined.

### *Response to Arguments*

Applicant's arguments filed on 1/8/07 with respect to claim 22-30 have been considered but are moot in view of the new ground(s) of rejection. Thus, finality of the previous office action mailed on 1/18/06 has been withdrawn.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 22,25,28,30, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker US 5,322,513.**

**As to claim 22,** Walker in figures 1 and 2 discloses a catheter assembly having an elongated catheter shaft (12) having a proximal end, a distal end, and a guide wire lumen (18)

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defined therein, and an inflation lumen (51) defined therein; a balloon disposed adjacent the distal end of the catheter shaft (col.1, lines 30-44), the balloon being in fluid communication with the inflation lumen (col.1, lines 30-44); a port (opening through 51) disposed at the proximal end of the catheter shaft; the port inherently having an opening defined therein (see fig.2) that is in fluid communication with the inflation lumen and a flanged end (56); and a seal (col.7, lines 63-67, col.8, lines 1-4) member attached to the flanged end and covering the opening.

**As to claim 25**, Walker discloses wherein the seal extends laterally beyond the flanged end of the port (see “between the annular threaded portion of the cap and the lip or the outer surface of the access port 51”, col.7, lines 63-67).

**As to claim 28**, Walker discloses wherein the seal defines the proximal most end of the port (see “the outer surface of the access port 51” in col.7 lines 63-67).

**As to claim 30**, Walker discloses the catheter further comprising a cap (20) coupled to the port and disposed over the seal (see fig.2).

**As to claim 35**, Walker discloses a balloon catheter in figures 1 and 2 comprising an elongate catheter shaft (12) having a proximal end region, a proximal port (51) disposed adjacent the proximal end region, a distal end region, a balloon (col.1, lines 30-44) disposed adjacent the distal end region; and an inflation lumen (inflation lumen comprises port 51, see fig.2) extending between the port and the balloon; wherein the port includes a proximal end (see fig.2), a proximal flange (56), and a proximal end surface defined by the proximal end and the proximal flange; and a seal (col.7, lines 63-67, col.8, lines 1-4) attached to the proximal end surface that seals the inflation lumen.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 23,24,27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker US 5,322,513.**

As to claims 23,24,27, and 29, Walker respectively lacks wherein the seal has/is a cross sectional surface area defined by a closed plane figure, generally planar, self-sealing, and releasably attached to the flanged region. However, Walker teaches a sealing member that can be o-ring or any conventional sealing members (col.7, lines 63-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to obtain the claimed seal structure because Walker teaches "any conventional sealing members" (see col.7 lines 63-67), which is substantially broad enough to render obvious the overall claimed seal structure cited for claims 23,24,27, and 29.

**Claims 26, 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker US 5,322,513 in view of Lopez et al. US 5,344,414.**

**As to claim 26**, Walker lacks wherein the seal is pierceable. However, Lopez teaches a pierceable seal used with a medical port for administration of fluid (see col.13, lines 65-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide pierceable seal the catheter of Walker for administration of fluid as taught by Lopez.

**As to claims 31-34, and 36**, Walker lacks a detailed description of the claimed steps, however discloses structural limitations required to perform the method steps (see above rejection cited for claims 22-30, and 35). Thus, the method steps as cited in claims 31-34, and 36 would have been obvious result of using the device of Walker.

### ***Conclusion***

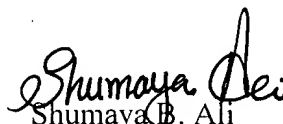
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Buchbinder (US 4,960,411), Dance (US 5,117,839), and Cuppy (US 5,749,857) are cited to teach catheter system within the scope of the claimed invention.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-W-F 8:30am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Shumaya B. Ali  
Examiner  
Art Unit 3771

  
JUSTINE R. YU  
SUPERVISORY PATENT EXAMINER  
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3/14/07